IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7631 of 2005

Between:

P. Samuel, S/o. William Isaiah,
R/o. H.No. 1-121/32, RTC Colony, Mubharaknagar, Nizamabad.

..... PETITIONER

AND

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1 The APSRTC, Rep. by its Managing Director, Musheerabad,

Hyderabad.
2 The Depot Manager, APSRTC Bus Depot, Armoor, Nizamabad

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the Office Order No. P1/693(3)2005-ARMR, Dated 23-03-2005 passed by the 2nd Respondent herein retiring the petitioner from service on the ground of medical invalidation and not providing alternative employment and also not paying salary from 23-02-2005 as illegal, arbitrary and in violation of APSRTC Employees (Service) Regulations 1964 and also against the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and consequently direct the respondents herein to provide the petitioner an alternative employment in the respondent corporation and also to pay salary from 23-02-2005 with all attendant benefits and pass such other order or orders as this Hon'ble may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.JITENDER RAO VEERAMALLA

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following :

ORDER:

This writ petition is filed for issuance of Writ of Mandamus declaring the Office Order No. P1/693(3)2005-ARMR, Dated 23.03.2005 passed by the 2nd Respondent herein retiring the petitioner from service on the ground of medical invalidation and not providing alternative employment and also not paying salary from 23-02-2005 as illegal, arbitrary and in violation of APSRTC Employees (Service) Regulations 1964 and also against the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and consequently to direct the respondents to provide the petitioner an alternative employment in the respondent corporation and also to pay salary from 23-02-2005 with all attendant benefits.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

According to the learned counsel for the petitioner, the petitioner was declared medically unfit for the post of driver. Therefore, when the petitioner was unfit for the post of driver, any other suitable post has to be given to him as provided by Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act').

On the other hand the learned Standing Counsel for the respondents submitted that if the petitioner is medically unfit for a particular post, the appropriate decision has to be taken by the respondent corporation in accordance with the rules and regulations.

According to the petitioner he was sent to medical examination wherein he was said to have been declared unfit for the post of driver. When a person was declared as medically unfit for a particular post, whether he is entitled for alternative employment, or not, is required to be gone into and decided by the respondent corporation in accordance with the rules and regulations and also according to Section 47 of the Act.

Therefore, without going into merits of the case, the writ petition is disposed of directing the respondents to take appropriate decision in accordance with the rules and regulations and also Section 47 of the Act, within a period of six weeks from the date of receipt of a copy of this order. If the medical report is not available with the

respondent corporation, the respondent corporation shall direct the petitioner to take medical examination in their hospital. No costs.

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K.C. Bhanu, J.

7th April 2005

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To

1 The Managing Director, APSRTC, Musheerabad, Hyderabad.
2 The Depot Manager, APSRTC Bus Depot, Armoor, Nizamabad District.

3 2 CD copies.